

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 9, 2009

**D053567      In re Peter C. et al., Juveniles**

The orders are affirmed. Nares, J.; We Concur: McConnell, P.J., McDonald, J.

**D053638      In re M. D., a Juvenile**

Judgment affirmed. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

**D053449      People v. Lowe**

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., Irion, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron  
Clerk: D. Moore

**D053142      Quillar v. Nielsen, et al.**

Cause called on merits. Lee V. Quillar, argued telephonically for appellant in pro per.  
Jeffrey M. Byer, Esq. argued for respondent. Cause submitted.

**D052142      People v. Kircher**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. James Flaherty, Deputy Attorney General argued for respondent. Ms. Harguindeguy replied. Cause submitted.

**D052743      Balzaga, et al. v. Fox News Network, LLC**

Cause called on merits. Jim Mitchell, Esq. argued for appellant. Guylyn R. Cummins, Esq. argued for respondent. Mr. Mitchell replied. Cause submitted.

**D052240      Like, et al. v. USA Cab Ltd., et al.**

Cause called on merits. Bernard F. King, III, Esq. argued for appellant. Jonathan P. Green, Esq. argued for respondent. Mr. King replied. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 9, 2009 (Continued)

**D053190      People v. Nigal Inc., et al.**

Cause called on merits. Jon Paul Webster, Esq. argued for appellant. Morris Gerard Hill, Deputy County Counsel argued for respondent. Mr. Webster replied. Cause submitted.

**D052933      D'Anna v. Pacificare of California, et al.**

Cause called on merits. Salvatore B. D'Anna, argued for appellant in pro per. Mazda Kersey Antia, Esq. argued for respondent. Mr. D'Anna replied. Cause submitted.

Court recessed at 1:57 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D052942      Brown v. Atlas-Kona Kai, Inc.**

Cause called on merits. Daral B. Mazzearella, Esq. argued for appellant. Robert E. Gallagher, Esq. argued for respondent. Mr. Mazzearella replied. Cause submitted.

**D051679      Pickering v. Coast Center for Orthopedic Arthroscopic Surgery & Treatment**

Cause called on merits. John R. Querio, Esq. argued for appellant. Kim L. Ellis, Esq. argued for respondent. Mr. Querio replied. Cause submitted.

Court recessed at 2:53 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D052877      Imagitas, Inc. v. Shiff**

Cause called on merits. Stephen Temko, Esq. argued for appellant. Scott Donald Bertzyk, Esq. argued for respondent. Mr. Temko replied. Cause submitted.

Court recessed at 3:12 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

**D051768      Whitty v. Stone**

Cause called on merits. Frank Whitty, argued for appellant in pro per. Harold Trimmer, Esq. argued for respondent. Mr. Whitty replied. Cause submitted.

Court recessed at 3:37 p.m. until Tuesday, March 10, 2009 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 10, 2009

**D052850      People v. Meyers**

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D053175      People v. Mendoza**

The judgment is modified to reflect a \$200 restitution fine (§ 1202.4, subd. (b)), a \$200 parole revocation fine (§ 1202.45) in place of the \$600 fines, and 224 days' credit plus 112 days' section 4019 credit for a total of 336 days. Nares, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D053375      People v. Shurick**

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

**D052342      Gustafson, et al. v. Mazzarella, et al.**

The order denying the motion to strike is affirmed. Each party to bear its own costs. Huffman, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D052032      Chaidez v. State of California, et al.**

The judgments are affirmed. All parties are to bear their own costs on appeal. Huffman, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D054478      Saul C. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Saul C. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D054475      M. G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner M. G. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D054518      In re Hennon on Habeas Corpus**

The petition is denied.

**D054016      In re Sledge on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 10, 2009 (Continued)

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

Clerk: D. Moore

**D053209      America's Choice Inc., et al. v. McGrath**

Cause called on merits. Richard H. Benes, Esq. argued for appellant.

Amelia A. McDermott, Esq. argued for respondent. Mr. Benes replied. Cause submitted.

Court recessed at 9:16 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

**D052921      Cephas v. City of San Diego, et al.**

Cause called on merits. Joel C. Golden, Esq. argued for appellant. Kristin M. Zlotnick, Esq. argued for respondent. Mr. Golden replied. Cause submitted.

**D052502      Corona v. Corona**

Cause called on merits. Richard Corona, argued for appellant, in pro per.

Donald A. Vaughn, Esq. argued for respondent. Mr. Corona replied. Cause submitted.

**D051154      Loerch v. Regents of the University of California**

Cause called on merits. Richard W. Weinthal, Esq. argued for appellant. Jennifer C. Yang, Esq. argued for respondent. Mr. Weinthal replied. Cause submitted.

Court recessed at 11:00 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

Clerk: D. Moore

**D052471      People v. Smith**

Cause called on merits. Allison Simkin, Esq. argued for appellant. Michael Murphy, Deputy Attorney General argued for respondent. Ms. Simkin replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE

March 10, 2009 (Continued)

Court recessed at 1:41 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke, and James McIntyre

**D051169      Krzywiec v. Krzywiec**

Cause called on merits. Marilyn Krzywiec, argued for appellant in pro per. Merritt Lori McKeon, Esq. argued for respondent. Ms. Krzywiec replied. Cause submitted.

Court recessed at 2:03 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

**D051981      Holley v. Cassidy Medical Group**

Cause called on merits. Alan Yockelson, Esq. argued for appellant. Lisa William Cooney, Esq. argued for respondent. Mr. Yockelson replied. Cause submitted.

Court recessed at 2:36 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

**D052722      People v. COON**

Cause called on merits. Victoria Stone Cole, Esq. argued for appellant. Vince LaPietra, Deputy Attorney General argued for respondent. Cause submitted.

**D052897      City of San Diego v. Willkie Farr & Gallagher**

Cause called on merits. Charles A. Bird, Esq. argued for appellant. Edward I. Silverman, Esq. argued for respondent. Mr. Bird replied. Cause submitted.

Court recessed at 3:24 p.m. until Wednesday, March 11, 2009 at 9:00 a.m.

**D049983      Troyk v. Farmers Group Inc., et al./Prematic Service Corporation  
(California) et al.**

The judgment is reversed and the matter is remanded with directions that the trial court: (1) vacate its order granting Troyk's motion for summary judgment; and (2) issue a new order denying Troyk's motion for summary judgment, Farmers' motion for summary judgment, and Troyk's motion for summary adjudication of his UCL and breach of contract causes of action, but granting Troyk's motion for summary adjudication of Farmers' affirmative defenses. The parties shall bear their own costs of appeal. CERTIFIED FOR PARTIAL PUBLICATION. McDonald, J.; We Concur: Nares, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 11, 2009

**D053760      In re Justin R. et al., Juveniles**

The judgments are affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D052288      Conservatorship of the Person and Estate of Straczynski**

Order affirmed. Appellant to bear respondents' costs on appeal. Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D053316      People v. Sanchez**

**D053317      People v. Sanchez**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D052675      People v. Butler, Jr.**

The judgment is modified to reflect a \$400 restitution fine (§ 1202.4, subd. (b)) and a \$400 parole revocation fine (§ 1202.45) in place of the \$600 fines and to reflect that the \$400 probation revocation fine (§ 1202.44) is now due. The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation. Huffman, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D053423      In re Maria V. et al., Juveniles**

The orders are affirmed. Haller, J.; We Concur: McConnell, P.J., Nares, J.

**D052061      People v. Landroche**

The judgment is affirmed. Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D054695      People v. Koulavongsa**

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment is entered.

**D052257      People v. Harris, Jr.**

The sentence imposed in this case is vacated and the matter remanded for resentencing consistent with this opinion. In all other respects, the judgment is affirmed. CERTIFIED FOR PUBLICATION      Huffman, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D052080      People v. Bankers Insurance Company**

The opinion filed February 11, 2009, is ordered certified for publication.

**D051552      Robert J. v. Jeffrey F.**

The order of the trial court dismissing Robert's motion for section 3027.1 sanctions is reversed, and the case remanded for the trial court to hear that motion on its merits. Each side shall bear its own costs on appeal. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 11, 2009 (Continued)

**D051465      Jeld-Wen v. Action Iron Works**

**D053094      Jeld-Wen v. Action Iron Works**

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Patricia Benke and Joan Irion  
Clerk: D. Moore

**D053063      Parker et al. v. Winslow**

Cause called on merits. James C. Mitchell, Esq. argued for appellant. Jenny K. Goodman, Esq. argued for respondent. Mr. Mitchell replied. Cause submitted.

**D052788      In re Lucy B., a juvenile**

Cause called on merits. Susan Bookout, Esq. argued for appellant, C.B. Cristina Gabrielidis, Esq. argued for appellant, J.B. William Henry Hook, Esq. argued for appellant, E.G. Gary Seiser, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the child. Ms. Bookout replied. Ms. Gabrielidis replied. Cause submitted.

Court recessed at 9:55 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D051649      Government Employees Insurance Company v. Tower Glass Inc., et al.**

**D051846      Tower Glass, Inc. v. Superior Court / Government Employees Insurance Company**

Cause called on merits. Abraham H. Tang, Esq. argued for appellant. Robert A. McGregor, Esq. argued for respondent. Mr. Tang replied. Sean Allen, Esq. was present in oral argument for appellant, Collins General Contractors, but did not argue. Cause submitted.

Court recessed at 10:18 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D052572      McMillan et al. v. SCME Mortgage Bankers, Inc.**

Cause called on merits. Evan Albert Kalooky, Esq. argued for appellant. No appearance by counsel for respondent. Cause submitted.

Court recessed at 10:32 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE

March 11, 2009 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

Clerk: D. Moore

**D053014      Scott v. Comerica Bank**

Cause called on merits. Noel Scott, argued telephonically for appellant in pro per. Cause submitted.

Court recessed at 1:34 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D053881      In re A. L., a juvenile**

Cause called on merits. Maryann Marisa Milcetic, Esq. argued for appellant. Carl Fabian, Esq. argued for respondent. Lisa Maldonado, Deputy County Counsel argued for respondent. Ms. Milcetic replied. Cause submitted.

**D050631      Whispering Ridge Homeowners Association v. Chaudry**

**D052506      Whispering Ridge Homeowners Association v. Chaudry**

Cause called on merits. A. Waheed Chaudry, argued for appellant in pro per. Alan R. Johnston, Esq. argued for respondent. Mr. Chaudry replied. Cause submitted

Court recessed at 3:00 p.m. until Thursday, March 12, 2009 at 9:00 a.m.

**D954462      Montague v. The Superior Court of San Diego County/People**

The petition is denied.

**D053818      Kutina v. Jauregui**

The petition is denied.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 12, 2009

**D053809      People v. Williams**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Aaron, J.

**D052499      City of San Diego v. Means**

The order awarding Means reimbursement of her defense costs under section 996.4 is reversed. The parties are to bear their own costs on appeal. McConnell, P.J.; We Concur: Haller, J., O'Rourke, J.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke  
Clerk: D. Moore

**D052932      Grossmont Union High School District v. Commission on Professional Competence**

Cause called on merits. Paul V. Carelli IV, Esq. argued for appellant. Fern Steiner, Esq. argued for respondent. Mr. Carelli replied. Cause submitted.

**D053347      Cozzi v. McCain Inc., et al.**

Cause called on merits. Carney Richard Shegerian, Esq. argued for appellant. Janice P. Brown, Esq. argued for respondent. Mr. Shegerian replied. Cause submitted.

**D051591      Mancinelli v. Siewak, et al.**

Cause called on merits. Evan Kalooky, Esq. argued for appellant. Robert J. Gaglione, Esq. argued for respondent. Cause submitted.

**D052576      Ankenbrandt v. Shannahan**

Cause called on merits. E. Ludlow Keeney, Esq. argued for appellant. Margaret A. Pitchkolan, Esq. argued for respondent. Mr. Keeney replied. Cause submitted.

Court recessed at 10:00 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 12, 2009 (Continued)

**D053349      Sanders v. Narcotics Anonymous World Services, Inc.**

Cause called on merits. Phillip C. Sanders, argued telephonically for appellant in pro per. Michael Shane Wildermuth, Esq. argued for respondent. Cause submitted.

**D052833      In re Fernando R., a juvenile**

Cause called on merits. Allison Simkin, Esq. argued for appellant. Steve Oetting, Deputy Attorney General argued for respondent. Cause submitted.

Court recessed at 1:36 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D052385      Pinkney v. William Cameron Family Management Co. Inc., et al.**

Cause called on merits. Peter Friesen, Esq. argued for appellant. Steven Boechmer, Esq. argued for respondent. Mr. Friesen replied. Cause submitted.

Court recessed at 2:02 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

**D052972      Donnelly v. Negrete, et al.**

Cause called on merits. Linda A. Paquette, Esq. argued for appellant. Araceli Pantoja Tovar, Esq. argued for respondent. Ms. Paquette replied. Cause submitted.

**D053018      Donnelly v. Negrete**

Cause called on merits. Linda A. Paquette, Esq. argued for appellant. Araceli Pantoja Tovar, Esq. argued for respondent. Ms. Paquette replied. Cause submitted.

Court recessed at 2:45 p.m. until Friday, March 13, 2009 at 9:00 a.m.

**D052582      In re K.H. a Juvenile**

It is ordered that the opinion filed herein on March 2, 2009, be modified. No change in judgment.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 12, 2009 (Continued)

**D052191      People v. Cuddeback**

Accordingly, the judgment is reversed and remanded with instructions to the trial court to conduct a post-conviction *Marsden* hearing. If, on remand, the court grants the *Marsden* motion, a new trial motion is filed, and the new trial motion is granted, appellant shall receive a new trial. If the court denies the *Marsden* motion, or a new trial motion is not filed, or a new trial motion is filed and denied, the court shall reinstate the judgment. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

**D052673      People v. Szymanski**

The judgment of the trial court is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D051768      Whitty v. Stone**

The judgment is affirmed. Whitty is to pay Stone's costs on appeal. McConnell, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D052290      People v. Savangsengoutha**

The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D054162      Wright v. Deno**

Appellant has failed to file a brief after notice given. The appeal is dismissed.

**D052976      In re Marriage of Stauffer**

The appeal is dismissed as moot. Debra shall recover her costs on appeal. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D054154      In re Kelson on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 13, 2009

**D053800      In re Anna S., a Juvenile**

The order granting Angelina's section 388 petition is reversed. Aaron, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

**D052471      People v. Smith**

The judgment is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., Aaron, J.

**D052572      McMillan et al. v. SCME Mortgage Brokers, Inc.**

The order is affirmed. SCME is awarded its costs on appeal. McIntyre, J.; We Concur: Benke, Acting P.J., Huffman, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre  
Clerk: D. Moore

**D052811      People v. Ranscht**

Cause called on merits. John Evan Edwards, Esq. argued for appellant. Teresa Torreblanca, Deputy Attorney General argued for respondent. Mr. Edwards replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D053072      Phillips v. TLC Plumbing Inc., et al.**

Cause called on merits. Robert S. Kostrenich, Esq. argued for appellant. Sean D. Stephens, Esq. argued for respondent. Mr. Kostrenich replied. Cause submitted.

**D050303      Sukumar v. Sukumar**

Cause called on merits. James R. Ballard, Esq. argued for appellant, Saraswati Sukumar. Frederic D. Cohen, Esq. argued for appellant, Shiu-Hua Alan Lee. Brian M. Hoffstadt, Esq. argued for respondent. Cause submitted.

**D053663      Adoption of G.S. et al., minors**

Cause called on merits. Lelah Selene Forrey-Baker, Esq. argued for appellant, J.M. Susan Bookout, Esq. argued for appellant, G.S. and C.S. Kathleen M. Mallinger, Esq. argued for respondent. Ms. Baker replied. Ms. Bookout replied. Cause submitted.

Court adjourned at 11:15 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 13, 2009 (Continued)

**D054549      In re Taylor on Habeas Corpus**

The petition is denied.

**D054711      Omar v. The Superior Court of San Diego County/People**

The petition is denied.

**D052084      Taxpayers for Responsible Land Use et al., v. City of San Diego/Hillel of San Diego**

The request for publication of the opinion is denied.

**D053065      In re Marriage of Burns**

The order imposing sanctions on Kaye under Family Code section 271 is reversed. The parties are to bear their own costs on appeal. Irion, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D054490      Rebecca M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Rebecca M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D054515      M. D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner M. D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D053553      Costa Serena Owners Coalition v. Costa Serena Architectural Committee**

On the Court's own motion, the above-entitled appeal will be considered with the pending appeal, Costa Serena Owners Coalition v. Costa Serena Architectural Committee, D052903/D053159. Oral argument for both matters is scheduled for Monday, April 13, 2009, at 9:00 a.m.